

March 24, 2003

Telephone Association of Maine, Request for
Waiver of Requirements of Chapter 204, § 5(B)

ORDER GRANTING
TEMPORARY WAIVER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we grant the request of the Telephone Association of Maine (TAM) for a waiver of the requirement of Chapter 204, § 5(B), as it applies to all incumbent local exchange carriers (ILECs) in Maine. TAM filed its waiver on behalf of its members, the twenty-two “independent” ILECs. As the same issue applies to Verizon-Maine (Verizon), we waive the same requirement for Verizon.

II. BACKGROUND

On January 17, 2003, TAM filed a request for a waiver of § 5(B) of Chapter 204 of the Commission’s rules. Chapter 204 establishes the criteria and the procedures that the Commission and Local Exchange Carriers designated as Eligible Telecommunications Carriers (ETCs) will follow to establish and change basic service calling areas.¹ The current version of Chapter 204 became effective December 17, 2002. Section 5(B) of Chapter 204 states, “Calls made from the home exchange to exchanges that are within the BSCA but not included in the flat-rate unlimited-calling portion of the Economy option shall be priced at five cents per minute for customers who subscribe to the Economy option unless the call is to the same municipality.” Previously, Chapter 204 required that those same calls be priced on a flat per-call basis.

The immediate implementation of the additional calling areas required by the amendments to Chapter 204 was delayed by the order adopting the amended rule until the affected companies could develop a coordinated implementation plan to be approved by the Commission. The change from per-call pricing to per-minute pricing was not explicitly included in the ordered delay. The companies, at a technical conference held January 14, 2003, stated that the migration from per-call pricing to per-minute pricing should be

¹ “Eligible Telecommunications Carrier” is a basic service provider designated by the Commission as an eligible telecommunications carrier for purposes of section 254 of the Telecommunications Act of 1996, 47 U.S.C., § 151 *et seq.* At this time, the only ETCs are the ILECs.

implemented using the same schedule as for the overall rule amendment implementation. As stated in the TAM waiver request,

If the Commission grants this requested waiver, it will allow companies to implement the new BSCA Routes and all of the associated changes to the pricing for basic service in an efficient manner. The efficient implementation of the new BSCA Routes and associated pricing issues benefits the customers by allowing companies to do a single coordinated campaign of customer education which will fully apprise customers of all of the changes to the BSCA Rules in Chapter 204, and allow customers to gain a benefit in the form of increased calling options at the same time that they are impacted by the changes in pricing for basic service, including changes in the pricing for calls from Economy to Premium exchanges.

III. STANDARD FOR GRANTING A WAIVER

The Commission may grant a utility's request for a waiver of any requirement of Chapter 204, if the requirement for which the exemption is sought is not required by statute. Further, the waiver may not be inconsistent with the purposes of Chapter 204 or Title 35-A.

IV. ORDER

We agree that all changes required by the recent amendments to Chapter 204 should be implemented on a coordinated schedule. For the reasons described above, we find that there is "good cause" for the waiver of Chapter 204, § 5(B) requested by TAM, and we grant a temporary waiver. We grant the same waiver for Verizon.

Accordingly, we

W A I V E

the requirement of Chapter 204, § 5(B) that eligible telecommunications carriers implement a rate of 5 cents per minute for calls by customers who subscribe to the economy option to areas within the customer's basic service calling area (BSCA) but that are not within the flat-rated calling area of the economy option. This waiver shall be effective only until the implementation of expanded BSCAs (to include all contiguous exchanges) pursuant to Sections 2(A) and 3(A)(1)(a) of Chapter 204. All local exchange carriers to which this temporary waiver applies shall, during the waiver period, maintain the per-call rates presently included in their rate schedules.

Dated at Augusta, Maine, this 24th day of March, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch

Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.